

Michigan House of Representatives
Committee on Health Policy
Hearing on HIV Testing Bill- HB 4583
Tuesday, March 9, 2010
Testimony of Bernadette Brown, Director of Policy, Triangle Foundation

Good morning. On behalf of Triangle Foundation I appreciate this opportunity to testify before the Committee on House Bill 4583. Thank you to Chairman Corriveau and the committee members for allowing us to be heard today on this very important issue.

My name is Bernadette Brown and I'm the Director of Policy for Triangle Foundation. Triangle Foundation is Michigan's statewide equal rights organization serving the lesbian, gay, bisexual and transgender (LGBT) communities.

It is our understanding that HB 4583 was introduced because some in the medical community expressed concerns about barriers to testing and seek to remove them. One claim is that counseling and informed written consent is a barrier to testing. We are unable to find any systematic, peer reviewed studies demonstrating that informed written consent by the patient (or counseling by the health care provider) is a barrier to testing. Consequently, we cannot support HB 4583.

We come before you today to express our support for the substitute for HB 4583, with an amendment. Section 5133 (2) requires that the physician or health facility document the provision of patient consent in the medical record. We request that the patient be allowed to also document her or his consent in writing, such as signing or initialing the statement written by the physician (or the relevant health care provider), in the medical record.

We extend our gratitude to all of the organizations, groups, agencies, businesses and legislators that worked diligently to maintain informed consent and pretest information in the substitute bill. We acknowledge the importance of HIV testing and we believe that there is a need to adopt and maintain public health policies that will prevent the spread of HIV. We also believe that such policies can accomplish this without abrogating the critical rights and protections of patients.

The stigma and discrimination an HIV positive individual faces can be overwhelming. We must not allow ourselves to forget that once an individual tests HIV positive, their lives are forever changed. Twenty to twenty-five percent of people living with HIV reported experiencing discrimination in medical care and employment.¹ The Equal Employment Opportunity Commission found HIV/AIDS- related employment discrimination to be “the most pervasive in terms of the number” and “particularly prevalent and conspicuous” compared to a general disability population.”² Additionally, a report released last month by Lambda Legal confirmed the unequal and discriminatory practices that many lesbian, gay, bisexual and transgender people experience with health care providers.³

Moreover, people of color are disproportionately impacted by HIV so not having the proper informed consent may result in greater harm to communities of color. It is well documented that many people of color suffer greatly from disparities in general health care and many distrust the medical system. African Americans comprise 14% of the population in Michigan, yet they account for 59-60% of the HIV and AIDS cases in Michigan. Some Detroit zip codes have HIV rates as high as third world countries.⁴ Nationally, HIV is the leading cause of death in Black women aged 25-35 years old and is the 4th leading cause of death for Hispanic women in the same age group.⁵ Thus, not

¹ Wolf LE, Donoghoe A, Lane T (2007), *Implementing Routine HIV Testing: The Role of State Law*. PLoS ONE 2(10): e1005. Doi:10.1371/journal.pone.0001005.

² Ibid.

³ See <http://www.lambdalegal.org/publications/when-health-care-isnt-caring/>, accessed on March 8, 2010.

⁴ See http://www.michigan.gov/documents/mdch/JAN_2010_307661_7.pdf, accessed on March 8, 2010.

⁵ See <http://www.cdc.gov/hiv/topics/women/resources/factsheets/women.htm>, accessed March 8, 2010.

providing the appropriate testing information (which the substitute bill seeks to do) and only allowing for the physician to document consent may open up abuses that will greatly impact these communities.

Consequently, we feel that it is extremely important that the patient is fully aware of what she or he is consenting to and should be able to provide her or his own written consent. We submit that simply allowing the patient to sign or initial that which is documented in the medical record would both eliminate the concern for expediency, since it only takes a few seconds to show the record to the patient and ask for the signature or initials and does not require a separate form, and will respect the right of the patient to fully consent to the test. We do not believe that there is anyone who would disagree with the fact that we all want greater access to testing for HIV; however, it must be done in a way that protects all residents of Michigan.

Again, we extend our gratitude to everyone working on this bill to make sure that it provides ample opportunity for testing while also respecting the rights of patients.

Thank you very much for your time and attention.